

AMENDED IN SENATE JULY 3, 2003

AMENDED IN SENATE JUNE 26, 2003

AMENDED IN ASSEMBLY MARCH 20, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 290

**Introduced by Assembly Member Firebaugh
(Principal coauthors: Assembly Members Diaz, Kehoe, and
Negrete McLeod)**

February 5, 2003

An act to amend Sections 45117 and 88017 of the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

AB 290, as amended, Firebaugh. Classified employees: notice of layoff.

(1) Under existing law, classified employees of school districts and community college districts subject to layoff as a result of the expiration of a specially funded program at the end of any school year are required to be given written notice on or before May 29 informing them of certain rights. Existing law requires that notice be given not less than 30 days prior to the effective layoff date; if the termination date of any specially funded program is other than June 30, or if classified employees are subject to layoff as a result of a bona fide reduction or elimination of a service performed by any department. Existing law ~~also authorizes a layoff of~~ *exempts a school district from those notice requirements if it lays off* classified employees for lack of funds; in the event of an actual and existing financial inability to pay salaries, or *lays*

~~off employees due to an unforeseeable lack of work without these notice requirements.~~

This bill would, instead, require that the employees to be laid off as the result of that notice be given written notice on or before April 29, or not less than 60 days prior to the effective layoff date, if the termination date of any specially funded program is other than June 30, or if classified employees are subject to layoff as a result of a bona fide reduction or elimination of a service performed by any department. The bill would delete the provision authorizing layoffs without any notice. The bill would prohibit a classified employee's position from being terminated ~~while if~~ a short-term employee is retained to render a service that the classified employee is qualified to render, ~~except with respect to the retention of a short-term employee, as defined, who is hired for a period not exceeding 60 days.~~

The additional notice requirements for school districts and community college districts required by this bill would impose a state-mandated local program. The bill would declare that this provision may not be construed to preclude a school or community college district governing board from implementing layoffs in the event of an actual and existing financial inability to pay the salaries of classified employees, or if there is a lack of work resulting from causes not foreseeable or preventable by the governing board, without providing the notice required by the bill.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Section 45117 of the Education Code is amended to read:

45117. (a) When, as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of the school year shall be given written notice on or before April 29 informing them of their layoff effective at the end of the school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than 60 days prior to the effective date of their layoff.

(b) When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work, affected employees shall be given notice of layoff not less than 60 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

~~(c) A classified employee's position may not be terminated while a short-term employee is retained to render a service that the classified employee is qualified to render. Nothing in this subdivision shall be construed to create a 60-day layoff notice requirement for any individual hired as a short-term employee, as defined in Section 45103, for a period not exceeding 60 days.~~

~~(d) This section may not be construed to preclude a school district governing board from implementing either of the following~~

(c) (1) *The position of a classified employee may not be terminated if a short-term employee is retained to render a service that the classified employee is qualified to render. This subdivision does not create a 60-day layoff notice requirement for any individual hired as a short-term employee, as defined in Section 45103, for a period not exceeding 60 days.*

(2) *This subdivision does not apply to the retention of a short-term employee, as defined in Section 45103, who is hired for a period not exceeding 60 days after which the short-term position may not be extended or renewed.*

(d) This section does not preclude the governing board of a school district from implementing either of the following actions without providing the notice required by subdivision (a) or (b):

(1) A layoff for a lack of funds in the event of an actual and existing financial inability to pay the salaries of classified employees.

(2) A layoff for a lack of work resulting from causes not foreseeable or preventable by the governing board.

(e) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240).

SEC. 2. Section 88017 of the Education Code is amended to read:

88017. (a) When, as a result of the expiration of a specially funded program, classified positions must be eliminated at the end of any school year, and classified employees will be subject to layoff for lack of funds, the employees to be laid off at the end of the school year shall be given written notice on or before April 29 informing them of their layoff effective at the end of the school year and of their displacement rights, if any, and reemployment rights. However, if the termination date of any specially funded program is other than June 30, the notice shall be given not less than 60 days prior to the effective date of their layoff.

(b) When, as a result of a bona fide reduction or elimination of the service being performed by any department, classified employees shall be subject to layoff for lack of work, affected employees shall be given notice of layoff not less than 60 days prior to the effective date of layoff, and informed of their displacement rights, if any, and reemployment rights.

~~(c) A classified employee's position may not be terminated while a short-term employee is retained to render a service that the classified employee is qualified to render. Nothing in this subdivision shall be construed to create a 60-day layoff notice requirement for any individual hired as a short-term employee, as defined in Section 88003, for a period not exceeding 60 days.~~

~~(d) This section may not be construed to preclude a community college district governing board from implementing either of the~~

~~(c) (1) The position of a classified employee may not be terminated if a short-term employee is retained to render a service that the classified employee is qualified to render. This subdivision~~

1 *does not create a 60-day layoff notice requirement for any*
2 *individual hired as a short-term employee, as defined in Section*
3 *88003, for a period not exceeding 60 days.*

4 *(2) This subdivision does not apply to the retention of a*
5 *short-term employee, as defined in Section 88003, who is hired for*
6 *a period not exceeding 60 days after which the short-term position*
7 *may not be extended or renewed.*

8 *(d) This section does not preclude the governing board of a*
9 *community college district from implementing either of the*
10 *following without providing the notice required by subdivision (a)*
11 *or (b):*

12 *(1) A layoff for a lack of funds in the event of an actual and*
13 *existing financial inability to pay the salaries of classified*
14 *employees.*

15 *(2) A layoff for a lack of work resulting from causes not*
16 *foreseeable or preventable by the governing board.*

17 *(e) This section shall apply to districts that have adopted the*
18 *merit system in the same manner and effect as if it were a part of*
19 *Article 3 (commencing with Section 88060) of this chapter.*

20 SEC. 3. Notwithstanding Section 17610 of the Government
21 Code, if the Commission on State Mandates determines that this
22 act contains costs mandated by the state, reimbursement to local
23 agencies and school districts for those costs shall be made pursuant
24 to Part 7 (commencing with Section 17500) of Division 4 of Title
25 2 of the Government Code. If the statewide cost of the claim for
26 reimbursement does not exceed one million dollars (\$1,000,000),
27 reimbursement shall be made from the State Mandates Claims
28 Fund.

